General Questions

Q1. Application Copies

Can an applicant obtain an original application submitted in a previous year, or original documents from an application package?

Answer: No. Any application becomes the property of the Georgia Department of Community Affairs (DCA) at the time of submission. Due to federal and State record-keeping requirements, all applications must be maintained by DCA. A previous year's application would be of limited use, as the letters and documents would need to be updated to meet 2000 application requirements.

Q2. Additional DCA HOME Requirements

DCA's guide specifies certain additional requirements (rents, reserves, etc.) for HOME loan applications. Are these additional requirements imposed by DCA in its role as a lender? If we obtain HOME funds from another source, do these same requirements still hold?

Answer: These additional requirements are imposed in part by the federal HOME program requirements and in part by DCA underwriting requirements. Each Participating Jurisdiction (PJ) issuing HOME funds imposes its own underwriting requirements. Please contact the appropriate PJ for information on its HOME funding requirements.

Q3. Common Space

Is the leasing office considered a DCA-assisted building?

Answer: The leasing office is considered a DCA-assisted building if all the project's units are affordable to low and very low-income tenants, and if that space will be used exclusively for the leasing of the aforementioned affordable units. For tax credit purposes, the leasing office will be considered common space, and the cost may be allocated among the low-income units in the project and included in eligible basis.

Q4. DCA-Assisted Units

Are DCA-assisted units all those units that are not market-rate in a mixed-income development?

Answer: Generally, if DCA assistance is a funding source for the non-market-rate units in the project, all non-market-rate units will be considered "DCA-assisted units."

Q5. Subsidy Layering Review

Does DCA conduct subsidy-layering reviews when combining tax credits with federal subsidies to finance an affordable housing development? If so, how does the process work.

Answer: Under a new Memorandum of Understanding (MOU) being finalized with the U.S. Department of Housing and Urban Development (HUD), DCA will conduct subsidy-layering reviews of properties receiving tax credits and HUD assistance (primarily, Section 221(d) or FHA mortgage insurance). In cases where such HUD assistance is contemplated, this should be indicated in the application. DCA will then automatically perform a subsidy-layering review as part of its underwriting for the tax credit reservation, and forward the analysis along with the appropriate certification to the Atlanta HUD office. In cases where HUD assistance in conjunction with tax-exempt bond financing is contemplated, the subsidy-layering review will occur at any time the local bond issuer requests technical assistance in making a determination for eligibility for the tax credits. In any case, this review will be repeated when underwriting for final tax credit allocations (Forms IRS-8609).

If DCA HOME funds are used in conjunction with tax credits, a subsidy layering review will be performed internally as part of the HOME loan underwriting.

Q6. Federal Regulations

Where can federal tax credit and HOME regulations be found on the Internet?

Answer: The Code of Federal Regulations can be found at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html. The HOME Final Regulation is found at 24 CFR Part 92. The Internal Revenue Service regulations governing tax credits can be found starting at 26 CFR Part 1.42.

Section 1, Financing Resources

Q7. HOME Rental Housing Program

The Plan states at the bottom of page 2 that construction loans "will be made in an amount sufficient to cover hard construction costs only." The first full paragraph near the top of page 3 states that permanent loans "will be made in order to retire DCA or non-DCA originated construction loans." If a nonprofit and/or a for-profit developer uses a non-DCA originated construction loan, will the DCA permanent loan pay for all items paid for by the non-DCA originated construction loan as approved by the construction lender, including soft costs?

Answer: No, HOME loans (under both the Rental Housing and CHDO programs) will be used to finance construction hard costs only.

Q8. Single-Family Design

Can a multifamily property utilizing a single-family architectural design be funded under with a HOME loan? How does this impact the per-acre unit density requirement?

Answer: Yes, single-family architectural designs are eligible for HOME funding. The per-acre density requirement applies to multifamily architectural designs but not to single-family designs.

Q9. Elderly Projects

Can balloon loans be obtained by developers of 100% elderly housing? Can this be done anywhere in the State?

Answer: Developers of 100% elderly housing can obtain balloon loans. However, only projects with a CHDO developer can receive HOME funding in a Public Jurisdiction (PJ) that receives HOME funds directly from HUD. Non-CHDO developers of elderly housing can only receive HOME funding outside a PJ that receives a direct HOME allotment.

Q10. Scattered Sites

When is a project considered "scattered site" as prohibited in the OAH programs?

Answer: The prohibition on scattered site projects came about due to the extreme difficulty owners had in the past with management and monitoring. Sites that are contiguous, divided only by street right-of-ways, then the project would not be considered "scattered site."

Section 7, Funding Availability and Restrictions

Q11. Maximum Credit Award

A. Please clarify the conditions under which an application would not be counted against a for-profit developer's Maximum Credit Award Limit ("credit cap").

Answer: An application will not be counted against a for-profit developer's credit cap if the for-profit is entering into a partnership with a nonprofit that does not otherwise meet DCA's experience requirements, and the resulting ownership entity is eligible for and applying under the Nonprofit Setaside.

B. Does a project ownership entity consisting of an experienced for-profit applicant partnering with an experienced nonprofit applicant count against the for-profit's credit cap?

Answer: Yes, if a for-profit entity partners with an experienced nonprofit, that for-profit entity will not be eligible for the credit cap exception.

C. Can an entity funded for 3 projects with tax credits serve in a development consultant capacity (not ownership) on other projects without disqualifying either one of its "ownership" applications or the one in which it serves as a consultant? Does this rule apply to HOME-funded projects?

Answer: If an entity acts as a consultant in a project, with no ownership stake, that project will not be counted under that entity's credit cap. However, DCA will closely review the capacity of that firm to complete all projects in which it is involved when making funding decisions.

If an entity has been awarded 30 percent of annual HOME loan authority, that entity can serve in a development consultant capacity provided the person has sufficient capacity to perform both the development and consulting services.

D. If a nonprofit and a for-profit form a partnership and that partnership does not count towards the for-profit's credit cap, can the for-profit be a 49% partner if the nonprofit is the 51% managing general partner?

Answer: Yes, provided that the partnership meets the requirements of the Owner/Developer Experience and Capacity as stated in Section 17.15 of the Plan.

E. When a for-profit developer enters into a partnership with an inexperienced nonprofit developer on a project, for the tax credits to exceed the credit cap, must the project be submitted under the Tax Credit Nonprofit Setaside?

Answer: An application will not be counted against a for-profit developer's credit cap if the for-profit is entering into a partnership with a non-profit that does not otherwise meet DCA's experience requirements, and the resulting ownership entity is eligible for and applying under the Nonprofit Setaside.

Section 14, 2000 Application Processing Fees

Q12. Application Fee

Is the cost of a market study included in the $6,000 tax credit application fee? If so, can an applicant update the market study already paid for through the CHDO Predevelopment Loan Program (CPLP)?

Answer: Yes, the tax credit application fee includes the cost of the market study. The CPLP funds can be used to update the market study if the project's CPLP budget allows. This subject can be further explored through the CPLP application process.

Section 17, Application Threshold Requirements

Q13. Point 17.1, Project Feasibility, Viability Analysis, and Conformance with DCA Policy Guide

What is the DCA underwriting standard for the "other income" line item in the operating pro forma?

Answer: The initial projected amount of "other income (occupancy based)" will be underwritten by DCA at 2% of initial projected Potential Gross Income. Projected "other income (occupancy based)" in the application must comply with the aforementioned requirement (2% of initial projected potential gross income). Projects that do not comply with the requirement will be adjusted by the amount necessary to bring the project into compliance. However, a variation from the 2% assumption may be allowed if supported by a DCA-commissioned appraisal.

Q14. Point 17.2, IRC Section 42 and/or 24 CFR Part 92 Gross Rent Restrictions

In a multiple-building project, are setasides for various income levels calculated on a project-wide basis, or on a building-by-building basis? For example, if an applicant elects to set aside 40% of the units for tenants with incomes no higher than 50% of area median income (AMI), are 40% of the units in the overall project set aside at 50% of AMI, or are 40% of the units in each building set aside at 50% of AMI?

Answer: For a "tax-credit-only" property (no HOME funding), the minimum setaside must be met in order to claim the credits. In addition to meeting the initial compliance date, the owner must determine if the minimum setaside will be met building-by-building or across the project. This is an irrevocable decision made when filing Form IRS-8609 for the first time.

For a property with "9% tax credits" and a HOME loan with a below-market interest rate, 40% of the units in each building must be rented to tenants with incomes no higher than 50% of AMI. This special occupancy provision is separate and distinct from the required tax credit minimum set-aside (please note, in the above example, that all single family houses (one-unit-per-building) that are part of a multifamily project must be rented to tenants with incomes no higher than 50 percent of the area median income).

Additional set-asides are project-specific and the appropriate documents must be reviewed to determine if the set-aside requirements are building-by-building or project wide.

Q15. Point 17.4, Unit Cost Limitations

A. Are the per-unit cost limits threshold qualification items, or simply a limit on how much of our costs will be considered in calculating eligible basis? For

example, if a project's costs are $5,000 over the limit, does that mean that the total costs will be reduced by $5,000 for purposes of calculating eligible basis, or does it mean that in the absence of a waiver, the application is thrown out?

Answer: If per-unit costs exceed the maximum per-unit cost limits and a waiver has not been approved, then the project is not eligible to compete for funding.

B. Does the threshold criterion for unit cost limitations apply to tax-exempt bond-financed projects?

Answer: Yes. Bond issuers should request a unit cost limitation waiver at the time they request a DCA opinion letter if unit costs are over the limit. Waiver requests should include detailed explanations of why the over-limit costs should be allowed.

Q16. Point 17.5, Site Control

A. May a contract or option for a site include a clause that the seller may continue to market the property until after the application deadline and give the applicant the right of first refusal to either match or exceed a subsequent offer?

Answer: No. Since the applicant cannot guarantee the site's availability for the project at a reasonable price that would also allow compliance with the per-unit cost limits, DCA cannot consider such a contract as described above to be evidence of site control.

B. In a case where a municipality is condemning a property (or series of properties), and in turn selling or granting it to an applicant for HOME or tax credits, is an option or sales agreement necessary as long as the condemnation is under way?

Answer: In such a case, a clear agreement between the municipality and the applicant (either in the form of an option, purchase-and-sale agreement, or a grant agreement, depending on the case) must be included in the application binder. If such agreement is subject to condemnation of the subject property, then evidence must be submitted to verify that such process has been completed by the application deadline, April 28, 2000. The point here is to secure the property's availability for the project, and not have it be subject to a series of legal procedures that may put the property's availability at risk.

Q17. Point 17.6, Environmental Requirements

If a Phase I Environmental Study was performed for an application submitted last year, can it be submitted again this year with an engineer's letter updating the study, or must a full scale Phase I Study be recommissioned?

Answer: A Phase I Environmental Study must not have been issued more than twelve months before the Application deadline of April 28, 2000 to be considered representative of the current environmental conditions of the site. An update may be submitted in this case, but it must be completed in accordance with the requirements in the Environmental Review tab of the Application Manual.

Q18. Point 17.9, Public Water/Sanitary Sewer/Storm Sewer

The nearest sewer manhole is approximately 800 ft. from a proposed project site. The city has provided written assurance that the sewer line can be extended to the site for approximately $30,000 and that the city has enough treatment capacity to serve the project. The line would be extended on the existing right-of-way beside the proposed project. A non-DCA loan includes a line item to pay for extending the sewer line. If the Application includes documentation for the cost of extending the line (letter from city) and a letter from the bank certifying that funds to extend the sewer line are included in the non-DCA loan, will DCA accept that arrangement as meeting this requirement?

Answer: Four tests must be met to fulfill this requirement: (1) capacity, (2) availability, (3) payment and (4) timetable (points 3 and 4 if extension is necessary). The described documentation from the city would be adequate to document capacity, provided that the city is the water/sewer provider in the project location.

However, availability must also be documented. Since the sewer line is not yet at the site, the applicant must submit letter(s) from easement holders both along and across the existing right-of-way that the easement has been granted. For example, if the easement runs along a county road on private property, letters from both the private property owner and the county stating that easements have been granted must be submitted. Also, a letter from the appropriate agency approving tap-in to the line at the site must be submitted.

The described documentation from the city (if the city is the water/sewer provider) regarding the cost of the sewer line extension and from the non-DCA lender or grantor regarding the payment for the extension would be adequate to document payment. The documentation described above does not provide a timetable for the construction of the sewer extension. A letter from the local authority that will be constructing the sewer extension indicating the construction timetable and their commitment to keeping that timetable must also be included.

Q19. Point 17.10, Market Feasibility

For cities that border state lines where there is a substantial population across the state line, can the out-of-state portion be included in the market area? In other words, can tax credits and HOME funds be used where part of the primary market is outside the State?

Answer: Tax credits and HOME funds can be used for projects located in the State of Georgia, regardless of whether the market encompasses an area outside of the State. DCA's market study will consider the true market area for the proposal regardless of political boundaries. Any market analysis performed or commissioned by the applicant should also use this approach.

Q20. Point 17.15, Owner/Developer Experience and Capacity

A. The last sentence of the first paragraph of this requirement states that the "organizational entity as well as the principal staff person must meet these experience requirements." Given that often people form special purpose entities to hold their general partner entities and sometime may form special purpose entities to serve as the developer for a particular project, how does DCA determine experience when a special purpose entity is involved?

   Answer: The entity that must meet DCA's experience requirements is the "parent" company or organization of the special purpose entity.

B. Why is an owner/developer not allowed to include an individual's experience gained while working with another firm?

   Answer: DCA does allow experience gained by team members who have worked with another entity in a principal capacity.

C. Is there a standard development consulting/partnership agreement between a for-profit and an inexperienced nonprofit that DCA has already approved that can be made available to organizations considering this type of partnership?

   Answer: No, each partnership must develop its own agreement. An attorney should develop the document that establishes a development consulting/joint venture agreement. The "Nonprofit Consultant/Partnership Agreement" tab in the Application Manual explains the requirements that these agreements must meet.

D. If an employee of a development company (A) is an experienced developer in his own right and has his own company (B), would an application from (B) count against (A)'s credit cap?

   Answer: Yes, due to concerns of capacity, conflicts of interest, and maintaining the integrity of the maximum credit award requirement, DCA will consider an application from an employee to count under the employer's credit cap.

E. Regarding our use of a development consultant, the Plan does not seem to indicate that we need to have a partnership with the consultant for our

ownership entity to meet the experience requirement. Will a long-term consulting agreement suffice or is it necessary to have the development consultant as a general partner?

Answer: A long-term consulting contract will suffice for purposes of meeting the owner/developer experience requirement. The consultant contract must meet the requirements as outlined in this Point, including conformance with the Consultant/Partnership Agreement Guide.

F. When an inexperienced nonprofit enters into a partnership with an experienced developer to meet the requirements of this section, the nonprofit is required to be 51% owner of the general partnership and managing general partner. If the experienced developer is the general partner, it will be required by the construction lender and equity provider to give guaranties, such as a completion guaranty, construction loan guaranty and operating deficit guaranty. Why is DCA requiring for-profit developers to incur liability under these guaranties on projects in which they are not making the decisions?

Answer: A for-profit/inexperienced nonprofit partnership yields benefits, though at a cost, to the for-profit. The for-profit gains access to less competitive set-asides of HOME and tax credits, and may obtain waivers on the maximum credit cap through this partnership. The cost of these benefits is the requirement that the for-profit train the nonprofit in housing development, and incur the liability through the guaranties. It is essential in these partnerships that the for-profit and the nonprofit maintain a close working relationship so that decisions are made mutually in the best interest of the project.

G. If the ownership entity consists of an inexperienced nonprofit partnering with an experienced for-profit as the general partners, can those partners be co-general partners?

Answer: No. Co-general partners typically are equal and have the same powers and duties in the partnership. When an inexperienced nonprofit enters into a partnership with an experienced for-profit to meet the Owner/Developer Experience requirement, the nonprofit is required to apply for the tax credit Nonprofit Setaside or the HOME CHDO Setaside. These set-asides require that the nonprofit be the managing general partner. This managing general partner requirement does not allow a co-general partner relationship to exist between the partners in this situation.

H. A corporation has worked with nonprofit organizations for the past 20 years as a “fee developer,” assisting nonprofits develop affordable housing. Its involvement in the project begins in predevelopment, runs through the development process, and continues for 6 months to 4 years post-lease-up. As

a fee developer, it performs a variety of roles such as finding sites, negotiating options, securing financing, and construction monitoring. It had worked with the tax credit and HOME programs for only 2 years, but has worked with other affordable housing programs in the past. Will this organization's level of experience qualify it as having sufficient owner/developer experience under this point?

Answer: The owner/developer must meet three tests in order to qualify as an experienced owner/developer according to the Plan:

1. It must have ownership experience beginning with the development phase, through project lease-up, and extending for at least three years thereafter;
2. It must have been owner/developer of at least 2 rental housing projects for at least 3 of the last 5 years; and
3. The rental housing projects in which it was involved must be projects of similar size and type to the one for which the owner/developer is applying for DCA funding.

Given the information provided in your question, you may have problems meeting these tests, particularly test 1. Regarding test 1, you may not have been involved in projects for a sufficiently long period of time to meet this requirement. Also, if you were not an owner of the properties, but only acted as a developer, you would not meet this test either. On test 3, you must document your affordable housing experience, both that involving Tax Credit and HOME, and that involving HUD funding. Be sure that your Experience Summary form clearly documents the extent to which you meet these three tests.

I. Will the above organization's level of involvement with the nonprofit developers qualify it as having sufficient owner/developer experience under this point?

Answer: No. A partner or consultant working with an inexperienced nonprofit must train it in the housing development process and include a detailed training plan in the consultant or partnership agreement as explained further in the Application Manual, Nonprofit Consultant/Partnership Agreement Guide. DCA will monitor to ensure that the training of the nonprofit by the experienced for-profit is taking place.

J. If a General Partner is created as an LLC and has several members/managers, do each of the members/managers have to meet the owner/developer experience test?

Answer: No, only one member/manager must meet the owner/developer experience test. The experienced member/manager must have a substantial ownership stake and development/ownership role in the LLC.

K. If there are two General Partners, do both have to meet the owner/developer experience test?

Answer: No, only one General Partner is required to meet the owner/developer experience threshold criterion.

Q21. Point 17.20, Local Government Understanding

A. This criterion states that the application needs to include a local resolution in support of the housing with a letter from the local government in a "format provided by DCA". Where is this format?

Answer: The Local Government Understanding form letter can be found in the Application Manual behind Tab B, Application Forms and Instructions, in the forms section, with the heading "to be submitted on Local Government Body's Letterhead".

B. If one has requested in writing to a local government to be placed on their governing body's meeting agenda and they refuse to do so, and in one's written correspondence one has adequately outlined the proposed development, can one submit the certified return-receipt letter as evidence that one communicated with the local government and still submit a Tax Credit application to DCA?

Answer: Yes. Evidence of an attempt to obtain a local government's comments in the form of a copy of such correspondence, along with a certified-mail or courier receipt, meets the requirements of this point on page 28 of the Plan.

Section 18, Project Scoring Criteria

Q22. Criterion 18.2.B.1, Site Review, Terrain Characteristics

May a waiver request be made for terrain characteristics?

Answer: If the terrain does not meet the terrain characteristics criterion, no points will be given. Waivers are only granted for per-unit project cost limits. Scoring criteria are either met and points are awarded, or not met and points not awarded. Projects do not fail threshold for not receiving points. Therefore, a waiver is not applicable to this criterion.

Q23. Criterion 18.2.B.6, Visibility/Accessibility

A site is located adjacent to a main access road, and shares the boundary with this roadway for the entire side boundary, well in excess of 100-ft. However, the entry is around the corner on an adjacent road, the driveway is less than 100-ft in width. Is this property eligible for the Visibility Points?

Answer: The Plan states that "the site is visible from the primary road with a frontage of at least 100-ft." The access need not be on the frontage. Therefore the property would be eligible for the three points under this criterion.

Q24. Criterion 18.3.B, Elderly Households

DCA has stated that projects serving elderly households are not considered special needs and therefore are not eligible for State HOME funds if built in a local participating jurisdiction. In the past, DCA treated projects serving elderly households as special needs projects, therefore eligible for State HOME funds if built in a local participating jurisdiction. Will DCA reconsider its position and permit the utilization of State HOME funds for elderly projects in local participating jurisdictions?

Answer: Projects serving elderly households are not eligible to receive State HOME funds if built in local participating jurisdictions under the 2000 Plan. Local HOME funds should be pursued to finance these projects. Another option is to form a partnership with a CHDO that is interested in constructing elderly housing in its service area. CHDOs are eligible to receive CHDO Setaside funds for projects located in local participating jurisdictions.

Q25. Criterion 18.3.C, Very Low Income Tenancy Exceeding Requirements

A. For a tax credit project not using HOME funds and electing the 40% at 60% test, is the minimum number of 50% units equal to 0? For example, if one is developing a 100-unit project and proposes 5 units (or 5%) at 50% rents, does one qualify for the 6 points?

   Answer: Yes to both questions.

B. In the abovementioned example, if one were proposing 20 market-rate units, is the number of 50% units divided by the total number of units (100) or the total number of affordable units (80)?

   Answer: The number of 50% units would be divided by the total number of residential units, which in this example would be 100 units. This is consistent with the tax credit regulations governing tax credit properties with HOME funding; DCA applies the same rationale to non-HOME projects.

Q26. Criterion 18.3.D., Mixed Income Projects

A. I have a 39-unit rehabilitation project in which I would like to have 20% market rate units: 20 percent of 39 is 7.8, and rounding up, I designate 8 units to be market rate. This rounding up results in a project with 21% of the units market rate. Does this mean I must take a 79% applicable fraction for calculating the tax credits?

Answer: Yes, the applicable fraction is correct at 79%.

B. Are the market rate units "floating" so that there is no tendency to make the market rate units more attractive than the affordable units?

Answer: Yes, the market rate units are floating.

Q27. Criterion 18.4.B, Government Financial Assistance

A. How will DCA calculate the three percent and seven percent total project cost and the three percent and seven percent annual operating cost reduction? How should we represent and document these cost reductions to DCA?

Answer: The calculation will merely be a ratio of the value of the government assistance to the total project cost/operating cost if the assistance was not provided. For example, if a proposed project includes donated land, the appraised value of the land would be the numerator, and the total project cost plus the appraised value of the land would be the denominator in calculating the percentage reduction in total project cost due to the donation of the land. See page 40 of the Plan, point 18.4.B, second to last paragraph for documentation requirements.

B. Please clarify the length of time that a municipality would need to provide an operating subsidy to qualify for points under this criterion.

Answer: There is no minimum amount of time that operating subsidies must be provided.

C. Will the Federal Home Loan Bank's Affordable Housing Program be considered for points under this criterion?

Answer: Yes, AHP funding will be considered government financial assistance for purposes of points scoring under this criterion. It will be assigned points in the same way that CDBG and HOME funds are. The final structuring of the AHP assistance to the project's ownership entity, not the grant given to the AHP applicant, will be the structuring that is assessed for points.

Q28. Criterion 18.5.A., Neighborhood Redevelopment

A. If a for-profit development corporation provides documentation that it is spearheading neighborhood redevelopment, i.e., it has a written narrative of its redevelopment efforts including an illustrated master plan, does a nonprofit entity have to be involved to receive points under this section?

Answer: Yes, the project ownership must include a community-based nonprofit organization.

B. Can a PHA qualify as the nonprofit partner required under this criterion?

Answer: The project ownership must include a community-based nonprofit organization. A PHA is not considered a community-based nonprofit organization for purposes of this criterion. If a PHA has set up a wholly-owned nonprofit housing development subsidiary and that subsidiary is part of the ownership entity, the ownership entity would meet the requirements of this criterion, provided it meets the nonprofit material participation requirements of the criterion.

C. The City of Atlanta has a redevelopment plan that contains specific areas targeted for revitalization. The Empowerment Zone, together with their linkages, is also a targeted revitalization area. Could you please give a working definition of "an existing revitalization plan endorsed by the respective local government" that would qualify for the twelve points under this Criterion?

Answer: Both the City of Atlanta approved revitalization plan and the City of Atlanta Empowerment Zone Revitalization Plan would be considered meeting the "formal plan adopted by the … respective local government" requirement of this Criterion.

Q29. Criterion 18.5.C.1, Project Design

I understand that DCA is attempting to provide incentives for durable exterior finishes by assigning points for the use of brick on project facades. However, due to building styles and window/door placement it may not always make sense to have every wall of the building have 40% brick coverage. Would variations on this requirement be considered?

Answer: No. This requirement is a scoring issue, so if the points requirement does not fit with the project design, the project will not be disqualified from competing. It will just not be eligible for these points.

Q30. Criterion 18.6, Readiness to Proceed

If all land disturbance and building permits have been applied for and all fees paid, does one qualify for points under this criterion if only a site grading permit has been issued by the local government?

Answer: Yes. The Plan requires that all land disturbance and building permits be applied for and fees paid in order to qualify for points under this criterion. If the applicant has done this and submits the required documentation as stated in the criterion, then the project would qualify for points if only the site grading permit has been issued by the local government. Since the site grading permit is the first building permit to be released by the local government after the building permit

has been applied for and fees paid, this permit would meet the requirement that "[a] copy of the building permit" be submitted to qualify for points.

Q31. Criterion 18.7, Compliance Status

A. With respect to the Forms IRS-8821 and the "Authorization for the Release of Information," applicants normally form new single purpose entities to act as General Partner and as Developer for each new project. Therefore the release of information would not be meaningful for these new entities. It is also not possible to list three projects that have previously been done by these new entities in the Experience Summary Form. How can an applicant comply with the requirements under this section?

Answer: All projects the ownership entity has been involved with in the last 5 years, including all of its members, must be reported on the Experience Summary Form. For further information, see the "Application Experience Summary, Form IRS-8821 and Compliance Self-Score Form" section of the application instructions.

B. In the situation that an experienced for-profit is partnering with an inexperienced nonprofit, will the for-profit compliance score accrue to the benefit of the nonprofit?

Answer: Co-General Partner scores can be arrived at by first determining the factor of each Co-General Partner and then averaging their individual factors to arrive at the General Partner Participant Compliance Factor. The nonprofit general partner will benefit from for-profit general partner's compliance factor if it is positive.

C. It appears that DCA is penalizing developers and/or general partners who have worked hard to be able to score the maximum 100 compliance score by averaging that score with an unaudited partner's score. Is this change in the best interest of the program if it makes it difficult for new developers and partners to participate?

Answer: No participant is penalized. All participants are given a neutral score. If the participant has positive audit experience then positive points will awarded and a positive score will result. If the participant has negative audit experience then points will be deducted from the neutral score and the participant will receive a negative score.

For the past two years co-participants' scores have been averaged. An inexperienced co-participant's neutral score is averaged with an experienced participant's score. The inexperienced participant will benefit if the experienced participants score is positive.

Policy Guide

Q32. Policy 12, Deferred Developer Fee

Must a deferred developer fee be documented in a deferred developer fee note?

Answer: A developer can either document a deferred developer fee by signing a deferred developer fee note or incorporating the deferred developer fee into the Limited Partnership Agreement along with a schedule that details the terms and conditions of repayment. DCA will accept either approach as long as the terms of the deferred fee meet the requirements set forth in the Plan.

Q33. Policy 37, Policy Guide, Payment and Performance Bonds (HOME)

Would you clarify under what conditions a waiver of the Payment and Performance Bond requirement may be granted?

A 100% Payment and Performance Bond will be required for all developments funded by DCA. Where there exists an identity of interest between the Owner/Developer and the Contractor and suitable bonding is not available, a waiver may be granted. Conditions for a waiver require the following:

1. Proof of non-availability of a Payment and Performance Bond from an insurance broker in the form of a certified statement that the construction entity is unable to receive bonding; and
2. A standby letter of credit in favor of DCA issued by a FDIC insured institution with a value of at least 50% of the total construction cost, including profit and overhead; or
3. The Owner agrees to secure a construction loan with private financing. DCA will disburse funds during the construction period, in an amount not to exceed $2,500 per construction draw. The final payment of funds shall be made at the time of substantial completion of construction, to be evidenced by submission of all items on the DCA Requirements for Final Draw. These include; Final Payment Request in AIA form, copies of all Certificates of Occupancy (all buildings), Final Lien Waivers, Construction Consultants' final inspection, approval for release of funds and other documents as required.

Core Application Form Instructions

Q34. Utility Allowances

On page 16 of the Application Instructions, the first paragraph under section IV states that if the local public housing authority doesn't have utility allowances for water, sewer or trash removal then the DCA utility allowances should be used. The third paragraph under that same section goes on to say that if the water, sewer and trash removal allowances aren't available, DCA utility allowances for all tenant-paid utilities should be used. Does that mean that if the local PHA has

estimates for everything except water, sewer and trash removal then DCA's allowances should be used for everything?

Answer: Applicants should only use DCA's allowance for the missing categories. If water, sewer and trash is not available from the local PHA then the applicant would only use the DCA allowances for water, sewer and trash, with the remainder of the utility allowances obtained from the local PHA.

Application Package Tabs Checklist

Q35. Tab 1, Replacement Plan and Schedule

In the Application Instructions, the discussion of the Replacement Plan and Schedule refers to Policy 40. According to the Policy Guide, Policy 40 applies only to HOME. However, the Application Checklist indicates that the Plan and Schedule is required for all projects. Is it required for projects using only the tax credits?

Answer: No, the Replacement Plan and Schedule is required only for HOME projects.

Q36. Tab 10, Aerial Photographs

Do the aerial photos on rehabilitation projects need to be site-specific, i.e., ordered especially for the OAH Application, or can they be general, i.e., obtained from a planning department?

Answer: Aerial photographs should be submitted if available, but they are not required. Either general or site-specific aerial photos will be considered in the application evaluation process.

Q37. Tab 14, Experience Summary

On the Experience Summary form, does the special-needs-units column refer to handicap units or does it refer to units for groups such as the mentally ill?

Answer: The special needs units refer to units serving those Special Needs Households as defined in Section 3 of the Plan.

Q38. Tabs 14, 15, and 17, Personal Tax Returns and Current Financial Statements

Clarify what documentation is required under Tabs 14, 15 and 17, "Personal Tax Returns (past 2 years) and Current Financial Statements".

Answer: The financial statements and tax returns are generally from the legal business entity. However, in the case of Owner and General Partner the personal financial statements and tax returns for each are required. This is due to the absence of tangible financial history for the newly-formed ownership entity, since

it is typically a single asset entity. This personal information would also be requested from the Developer and Property Manager if there existed inadequate financial information on the legal business entity.

Q39. Tab 19, State CHDO Qualification Letter

Must a copy of the State CHDO qualification letter be submitted with the Application if the CHDO already qualified as a CHDO?

Answer: If the CHDO receives its CHDO qualification in 2000, the CHDO qualification letter must be submitted with the application. If the CHDO qualified in a previous year, the CHDO must submit the CHDO renewal application with application for funding.

Q40. Tab 26, Existing Tenant Household Data

The Application Tabs Checklist indicates that the Tenant Household Data Forms are required for HOME projects only, but the Application Instructions don't appear to make this distinction. For an application for Tax Credits only, are Tenant Household Data Forms required?

Answer: As is stated in the Policy Guide (Policy 38), Tenant Household Date Forms must be submitted for both Tax Credit and HOME applications.

Core Application Form

Q41. Taxpayer Identification Number (TIN)

In the past, it wasn't required that the ownership entitiy have its TIN at time of application. Is that still the case?

Answer: At the time of application the ownership entity's TIN need not be obtained, but application should be made. Once funds have been awarded, the TIN must be submitted with the firm financing commitments. In any case, the TIN must be obtained prior to issuance of tax credit carryover allocation documents and HOME loan closing.

Q42. Construction Contingency

The minimum and maximum construction contingency for new construction is 2% while the contingency for rehabilitation must fall between 5% and 7%. There is only one line in the Application for construction costs and one line for construction contingency. In a project involving both new construction and rehabilitation, would it be permissible to calculate the contingency for new construction and the contingency for rehabilitation separately and then add them together for the contingency line item? The calculated percentage would actually be a blended rate. An explanation could then be included under Tab 1 to show

how the number was derived. Is this how DCA would recommend handling this issue?

Answer: Yes. The explanation of how the blended contingency was determined should appear in the Comments and Clarifications Tab Printout in Tab 1.

Architectural Guide, Tab F, Application Manual

Q43. Parking Space Requirement

The application states that a minimum of 1.5 parking spaces per unit is required. If a project is an urban in-fill development within a zoning district that requires only one space per unit, which requirement prevails: the DCA requirement or the local zoning requirement?

Answer: The local zoning requirement would prevail. DCA won't override local zoning requirements but the owner must submit documentation from the local zoning agency stating that the lower parking ratio is acceptable per the local zoning code.

Clarifications

C1. Correct Application Form

An Application Form, Tabs Checklist, and Application Instructions (Application documents) were sent out with the Notice of Funding Availability. However, these documents were courtesy draft versions to give potential applicants an idea of what to expect when the final Application documents were issued in the Application Manual. The correct Application documents to be using to prepare 2000 Round submissions are those in the Application Manual.

C2. Watch Areas of Potential Overbuilding

DCA has become aware of certain areas of the State in which market conditions may not be favorable for new affordable rental housing development at this time. In most cases this is a result of the amount of new housing currently being developed and placed in service. These areas are **Canton**, **Dublin**, **Warner Robins**, and **St. Marys**. Please be advised that DCA is not placing a prohibition on funding new development in these areas, but simply a "watch" to guard against overbuilding in certain markets without allowing sufficient time for unit absorption. Any proposals in these areas will be carefully scrutinized, and should include substantial evidence that the proposed development is feasible at this time.

C3. Terrain Characteristics

The last sentence of Section 18.2(B)(1) Terrain Characteristics (page 34 of the Qualified Allocation Plan) should read "Little or no regrading or fill would be required to obtain drainage patterns."